

REMARKS

Prior to entry of the present Amendment, claims 1-3, 5-9, 14-18, and 21-26 were pending. With this Amendment, claims 23 and 24 are canceled, and independent claims 1 and 14 are amended.

Claims 1-3, 5-9, 14-18, and 21-26 were provisionally rejected on the grounds of non-statutory obviousness-type double patenting in view of co-pending Application Serial No. 10/325,140 and co-pending Application Serial No. 10/694,420, both assigned to the assignee of the present application. Claims 1-3, 5-9, 14-18, and 21-26 are also rejected on the grounds of non-statutory obviousness-type double patenting in view of U.S. Patent No. 6,709,623 and Antonacci (U.S. Patent No. 5,244,724). In view of the amendments to the independent claims and arguments presented herein, the Examiner is respectfully requested to reconsider the propriety of the obviousness-type double patenting rejections based on the co-pending applications and commonly owned '623 patent to Haynes. It is respectfully submitted that the present independent claims present patentably distinct features that are not obvious in view of the applications and '623 patent. In addition, because no allowable claim scope has been determined for the present application, it is respectfully requested that the obviousness-type double patenting rejections be held in abeyance with respect to the present application until such time allowable subject is indicated for the present application.

Claims 1-3, 6, 7, 9, 14-18, and 25 were rejected as obvious in view of the combination of the GB '753 patent and Antonacci '724. Claims 1-3, 6, 7, 9, 14-18, 25, and 26 were rejected under §103 in view of the combination of Weng '857 and Antonacci '724, as well as the combination of Haynes '623 and Antonacci '724. It is

respectfully submitted that independent claims 1 and 14 as amended and presented herein patentably distinguish over the cited combinations of references.

The method of independent claim 1 is amended herein to call for the non-contact deflecting device to comprise an air jet deflector that provides discrete jets of air at a downward angle with respect to a horizontal plane and a sideways angle with respect to a machine direction (MD) of the nonwoven web. The apparatus of independent claim 14 has been similarly amended.

Without acquiescing to the Examiner's proposed obviousness combination based on the GB '753 patent and Antonacci '724, it is respectfully submitted that such combination does not contain the features of independent claims 1 and 14. The references alone or in combination do not teach, motivate, or provide any reason to incorporate a pneumatic air deflector that provides discrete jets of air at a downward angle with respect to a horizontal plane and a sideways angle with respect to the machine direction of the nonwoven web. Antonacci '724 merely states at column 7, lines 63 through 66 that an external force, such as air pressure, may be used "to deflect the fibers into different patterns." This vague suggestion does not suggest to one of ordinary skill in the art to modify the structure of the GB '753 patent in accordance with independent claims 1 and 14 as amended herein.

Similarly, the obviousness combination of independent claims 1 and 14 based on Weng '857 and Antonacci '724 is also not well founded in view of the amendments to claims 1 and 14 for essentially the reasons set forth above. In addition, Weng '857 states in the Background section at column 1, lines 63 through column 2, line 2 that various mechanical and pneumatic methods have already been proposed in the art to

disrupt the parallel pattern of the curtain of fibers to produce a more random or oscillating pattern, and that such methods are not desirable. The invention of Weng '857 relates to providing a more random dispersion of the fibers by pulsing a DC charge applied to the fibers. The proposed combination of Weng '857 and Antonacci '724 is directly contrary to the teachings of Weng '857.

The obviousness rejection based on Haynes '623 and Antonacci '724 is improper in that the Haynes '623 reference cannot be used in an obviousness rejection. As indicated on its face, the Haynes '623 patent is assigned to Kimberly-Clark Worldwide, Inc. The present application is also assigned by the inventors to Kimberly-Clark Worldwide, Inc. Thus, under 35 U.S.C. §103(c)(1), the Haynes '623 patent cannot be used in an obviousness rejection against the present application.

It is noted that dependent claims 23 and 24 were rejected based solely on the obviousness-type double patenting rejections set forth in sections 1 through 4 of the Office Action, and not based on any combination of art that includes Antonacci '724. The limitations of these dependent claims have been essentially incorporated into the independent claims and it is respectfully submitted that the independent claims are patentably distinct over any combination of references that includes Antonacci '724 for at least the reasons initially recognized by the Examiner.

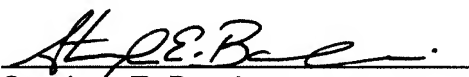
With respect to the provisional obviousness-type double patenting rejections based on the co-pending Application Serial Nos. 10/694,420 and 10/325,140, as well as the double patenting rejection based on the Haynes '623 reference in combination with Antonacci '724, the Examiner is respectfully requested to reconsider such rejections based on the distinguishing remarks and amendments set forth herein. With respect to

the co-pending applications, modification of the structures and methods set forth therein in accordance with independent claims 1 and 14 of the present application are not obvious, as set forth above. With respect to the Haynes '623 patent in view of Antonacci '724, such combination is not obvious and does not include the limitations of claims 1 and 14, as set forth above.

With the present Amendment, it is respectfully submitted that all pending claims are allowable and that the application is in condition for allowance. Favorable action thereon is respectfully requested. The Examiner is encouraged to contact the undersigned at his convenience should he have any questions regarding this matter or require any additional information.

Respectfully submitted,

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